IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2294 of 1997

Between:

The General Manager,
Adoni Cotton Mills,

A unit of NTC (APKK&M Ltd.,)

Adoni, Kurnool District.

..... PETITIONER

AND

1. The Authority under the Payment of Wages Act, 1936 and Deputy Commissioner

of Labour, Kurnool Region, Kurnool.

2. The Assistant Labour Officer,

III Circle, Adoni, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari calling for the records relating to the order in P.W.2/1996, on the file of the Authority under Payment of Wages Act, 1936 and Deputy Commissioner of Labour, Kurnool Region, Kurnool, the 1st respondent herein, and quash the same; and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.P.KAMLAKAR

Counsel for the Respondent No.1: None

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following :

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THE HONOURABLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 2294 OF 1997

ORDER:

This writ petition is filed by the petitioner aggrieved by the order passed by the 1st respondent at the instance of the 2nd respondent. According to the petitioner, petitioner-company is a Unit of National Textiles Corporation Ltd., (N.T.C.) which is a wholly owned Central Government Company as all the shares are held by the President of India, except two, which are held by the Special Secretary, Ministry of Commerce and Joint Secretary, Ministry of Commerce, who are also officials of the Central Government. According to the petitioner, as the petitioner-company is part of the Central Government Undertaking and as it is completely owned by the Central Government, the provisions of A.P. Factories and Establishments (National, Festival and other Holidays) Act, 1974 (for short 'the Act') would not be applicable, especially in terms of Section 11 which clearly exempts the application of the provisions of the Act to any factory or establishment which is under the Control of the Central or State Government or Local Authority , Reserve Bank of India or Railway Administration. Therefore, the learned counsel for the petitioner contended that the provisions of the above Act have no application and the 1st respondent was in error in entertaining the application of the 2nd respondent filed with reference to the petitioner-company and also in determining the liability without giving sufficient opportunity to the

petitioner.

It is stated that the State Government issued G.O. Rt. No. No.208 on 7.2.1996 declaring 18th January, 1996 as a paid Holiday to all the employees of the Factories and establishments in view of the demise of Sri N.T.Rama Rao, Former Chief Minister of Andhra Pradesh. According to the 2nd respondent, as the employees of the petitioner-company were not paid salary in terms of Section 15(2) of the Payment of Wages Act, 1936, the 2nd respondent filed claim petition for payment of Rs.40,876/- together with compensation and costs. According to the petitioner, though, time was sought for to get instructions from the Head Office, the 1st respondent without giving sufficient opportunity passed the impugned order imposing liability to the extent of the claim made by the 2nd respondent on behalf of the workers of the petitioner-factory. Subsequently, though petitioner made applications seeking to set aside the said order as that order was passed without giving sufficient opportunity to it, but, however, the 1st respondent did not entertain those applications. Therefore, petitioner has come up with the present writ petition.

At the time of hearing, learned counsel for the petitioner contended that similar issue was considered by this Court in the case of HMT WORKERS AND STAFF UNION AND ANOTHER vs. HINDUSTAN MACHINE TOOLS LTD., & OTHERS (), where the issue was in terms of Section 11(1)(c) of the Act, whether HMT Limited is owned and controlled by the Government and whether it is exempted from Section 11(1)(c). The said issue was answered in favour of the company. Similarly, the learned counsel also relied upon the decision of a Division Bench of this Court in the case of B.H.E.L. STAFF AND WORKERS' UNION vs. BHARAT HEAVY ELECTRICALS LTD., (BHEL) & OTHERS ().

Here also, a Division Bench of this Court had an occasion to consider whether B.H.E.L. was a company owned and controlled by the Central Government in terms of Section 11(1)(c) of the Act and this Court answered in favour of the company. Therefore, learned counsel contended that even the N.T.C., which is a company registered under the Companies Act to which the petitioner is a Unit affiliated or part of N.T.C., is also completely owned and controlled by the Central Government. Learned counsel also filed Memorandum of Articles of Association of National Textile Corporation and also showed that all the Board of Directors as well as Chairman are being appointed only by the President of India. Therefore, since the

company in question is completely owned and controlled by the Central Government, it is also entitled to exemption in terms of Section11(1)(c)of the Act. Learned Government Pleader opposed the contention of the petitioner.

Heard both sides and considered the material on record.

The Memorandum of Articles of Association of N.T.C., clearly shows that it is a company completely owned and controlled by the Central Government, to which the petitioner is also a part as it was declared as one of the sick units and was taken over by the NTC. In that view of the matter, petitioner is a company completely owned and controlled by the Central Government and in view of the decisions of this Court in H.M.T. and B.H.E.L., (cited 1 and 2 supra), the petitioner is also entitled for a declaration that it is a company completely owned and controlled by the Central Government and therefore the provisions of Section 11(1)(c) applies to it and accordingly the other provisions of the Act have no application to the petitioner company.

The writ petition is accordingly allowed setting aside the order of the 1st respondent in P.W.2/1996, dated 8.1.1997. No costs.

30th July, 2004

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That Rule Nisi has been made absolute as above

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Thirtieth day of July, Two Thousand and Four.

To

1. The Authority under the Payment of Wages Act, 1936 and Deputy Commissioner of Labour, Kurnool Region, Kurnool.

2. The Assistant Labour Officer,

III Circle, Adoni, Kurnool District.

3. Two C.Cs. to the Government Pleader for Labour, High Court Buildings, Hyderbad.(OUT)

4. Two C.D. copies